

**DECLARATION AND POWER OF ATTORNEY
FOR REISSUE PATENT APPLICATION**

As below-named inventors, we hereby declare that:

Our residence, post office address and citizenship are as stated below next to our names,

We believe we are original, first and the only joint inventors of the subject matter which is claimed and for which a reissue patent is sought on the invention entitled:

FLOOR JOIST RETAINER AND METHOD FOR USING THE SAME

the specification of which
(check one)

 is attached hereto.
 was filed on September 15, 2000 as Application Serial No. 09/662,718.
and was amended on March 11, 2002; October 11, 2002; August 9, 2004;
September 9, 2004; and October 19, 2005

We hereby state that we have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

We acknowledge the duty to disclose information that is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, § 1.56(a).

We believe original U.S. Patent No. 5,806,274 to be wholly or partially inoperative or invalid because it claims more or less than the patentee had the right to claim in the patent. We believe that independent claim 1 from original U.S. Patent No. 5,806,274 does not contain a limitation necessary to distinguish the prior art. Specifically, as noted on the attached Appendix A, claims 1, 3 and 5-8 have been amended and new claims 9-11 and 21-22 have been added. Amended and new independent claims 1, 7-8 (amended) and 21-22 (new) include the addition of a new element, an "intermediate structural plate". For example, amended claim 1 now includes the following new element: an intermediate structural plate interconnecting the sides and back of the floor joist retainer body, the intermediate structural plate being attached to the sides and back when the concrete is poured into the forms and removable after the concrete is poured. Amended independent claim 5 now recites an "open front" not an "open front side", and it should recite "a back", not "a back side".

All errors being corrected in the reissue application up to the time of filing this declaration arose without any deceptive intention.

We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the reissue application or any reissue patent issued thereon.

POWER OF ATTORNEY: As named inventors, we hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith. (listed name and registration number)

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APPENDIX A

1. (amended) A floor joist retainer, for use in a concrete foundation formed by pouring concrete into forms, which comprises:

a floor joist retainer body having an open front [side], [and] closed sides, a back, [side and] a bottom, and a removable top [side], and configured to receive and support an end of a floor joist positioned within [said] the floor joist retainer body through the [open] top and front, the [said] removable top [side for attachment with] being attached to the floor joist retainer body when the concrete is poured into the forms [it is attached to the form] and [is] removable after the concrete is poured;

an intermediate structural plate interconnecting the sides and back of the floor joist retainer body, the intermediate structural plate being attached to the sides and back when the concrete is poured into the forms and removable after the concrete is poured;

a retaining flange attached to [said] the floor joist retainer body for engagement within the concrete foundation; and

removable means for removably attaching [said] the floor joist retainer body to the [form] forms before the concrete is poured into the forms.

3. (amended) The floor joist retainer of claim 1 wherein [said] the floor joist retainer body is formed of material to which poured concrete will not adhere.

Cancel claim 4.

5. (amended) A floor joist retainer, for use in a concrete foundation formed by pouring concrete into forms, which comprises:

a floor joist retainer body having an open front [side], [and]closed sides, a back, [side and] a bottom, and an open top [side], and configured to receive and support an end of a floor joist positioned within [said] the floor joist retainer body through the open top and front;

a retaining flange attached to [said] the floor joist retainer body for engagement within the concrete foundation;

a plurality of nail posts attached to the sides of [said] the floor joist retainer body, each positioned and configured to hold a nail with a pointed end extending into [the] a form; and

a plurality of nails positioned within [said] the nail posts and configured in size to extend a pointed end into a form.

6. (amended) The floor joist retainer of claim [1] 5 wherein [said] the floor joist retainer body is formed of material to which poured concrete will not adhere.

7. (amended) A method of positioning and supporting a floor joist within a concrete foundation formed by pouring concrete into forms using a floor joist retainer having a floor joist retainer body having an open front [side], closed sides, [and] a bottom, and a removable top [side], and configured to receive and support an end of [a] the floor joist positioned within [said] the floor joist retainer body through the [open] top and front, the floor joist retainer further including an intermediate structural plate interconnecting the sides and back of the floor joist retainer body, the intermediate structural plate being attached to the sides and back when the concrete is poured into the forms and removable after the concrete is poured, the floor joist retainer further including a retaining flange attached to [said] the floor joist retainer body for engagement within the concrete foundation, and means for removably attaching [said] the floor joist retainer body to the [form] forms before the concrete is poured into the forms, [which comprises] the method comprising:

positioning and attaching [said] the floor joist retainer to a form with the removable top [side] attached to the floor joist retainer body before the concrete is poured with the open front facing [said] the form;

pouring the concrete into the forms;

curing the concrete;

removing the forms;

removing the intermediate structural plate from the floor joist retainer body;

removing the removable top [side] from the floor joist retainer body; and

positioning [an] the end of the floor joist into the floor joist retainer body.

8. (amended) A method of positioning and supporting a floor joist within a concrete foundation formed by pouring concrete into forms using a floor joist retainer having a floor joist retainer body having an open front [side], closed sides, [and] a bottom, and a removable top [side], and configured to receive and support an end of [a] the floor joist positioned within [said] the floor joist retainer body through the [open] top and front, the floor joist retainer further including a retaining flange attached to [said] the floor joist retainer body for engagement within the concrete foundation, a plurality of nail posts attached to the sides of [said] the floor joist retainer body, each positioned and configured to hold a nail with a pointed end extending into [the a form, and a plurality of nails positioned within [said] the nail posts and configured in size to extend a pointed end into [a] the form [said floor joist retainer body] to removably attach [said] the floor joist retainer to [said] the form before the concrete is poured into the forms, [which comprises] the method comprising:

positioning and nailing [said] the floor joist retainer to a form, with the open front facing the form with the removable top [side] attached to the floor joist retainer body, before the concrete is poured into [said] the forms;

pouring the concrete into the forms;

curing the concrete;

removing the forms;

removing the removable top [side] from the floor joist retainer body; and

positioning an end of the floor joist into the floor joist retainer body.

9. (new) A floor joist retainer, for use in a concrete foundation formed by pouring concrete into forms, comprising:

a floor joist retainer body having an open front, closed sides, a back, a bottom, and a removable top, the floor joist retainer body being configured to receive and support an end of a floor joist positioned within the floor joist retainer body through the top and front, the removable top being attached to the floor joist retainer body when the concrete is poured into the forms and removable after the concrete is poured;

a retaining flange attached to the floor joist retainer body for engagement within the concrete foundation;

a plurality of nail posts attached to the sides of the floor joist retainer body, each being positioned and configured to hold a nail so that a pointed end of the nail extends into one of the forms; and

a plurality of nails positioned within the nail posts.

10. (new) The floor joist retainer of claim 9, wherein the floor joist retainer body is formed of material to which poured concrete will not adhere.

11. (new) The floor joist retainer of claim 9, further comprising an intermediate structural plate interconnecting the sides and back of the floor joist retainer body, the intermediate structural plate being attached to the sides and back when the concrete is poured into the forms and removable after the concrete is poured.

21. (new) A floor joist retainer, for use in a concrete foundation formed by pouring concrete into forms, comprising:

a floor joist retainer body having an open front, sides, a back, a bottom, and an open top, the floor joist retainer body being configured to receive and support an end of a floor joist positioned within the floor joist retainer body through the open top and front;

an intermediate structural plate interconnecting the sides and back of the floor joist retainer body, the intermediate structural plate being attached to the sides and back when the concrete is poured into the forms and removable after the concrete is poured;

a retaining flange attached to the floor joist retainer body for engagement within the concrete foundation;

removable means for removably attaching the floor joist retainer body to the forms before the concrete is poured into the forms; and

a plurality of nail posts attached to the sides of the floor joist retainer body, each being positioned and configured to hold a nail so that a pointed end of the nail extends into a form, where the removable means includes a plurality of nails positioned within the nail posts.

22. (new) A floor joist retainer, for use in a concrete foundation formed by pouring concrete into forms, which comprises:

a floor joist retainer body having art open front, closed sides, a back, a bottom, and a top, at least one cut being provided on the floor joist retainer body where the top connects to the sides and back so that the top is removable, the floor joist retainer body being configured to receive and support an end of a floor joist positioned within tile floor joist retainer body through the top and front, the top being attached to the floor joist retainer body when the concrete is poured into the forms and removable after the concrete is poured;

a retaining flange attached to the floor joist retainer body for engagement within the concrete foundation;

removable means for removably attaching the floor joist retainer body to the forms before the concrete is poured into the forms; and

an intermediate structural plate interconnecting the sides and back of the floor joist retainer body, the intermediate structural plate being attached to the sides and back when the concrete is poured into the forms and removable after the concrete is poured.